

Julianne P. Blanch, USB #6495
Grace S. Pusavat, USB #15713
PARSONS BEHLE & LATIMER
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111
Telephone: 801.532.1234
Facsimile: 801.536.6111
JBlanch@parsonsbehle.com
GPusavat@parsonsbehle.com
ecf@parsonsbehle.com

C. Ashley Callahan (*pro hac vice*)
**LAW OFFICES OF C. ASHLEY
CALLAHAN, P.C.**
The Haehnel Building
1101 East 11th Street
Austin, TX 78702
Telephone: 512.817.3977
Telecopier: 512.287.3127
Acallahan@callahanlawoffices.com

Joshua G. Jones (*pro hac vice*)
**THE LAW OFFICE OF JOSHUA G.
JONES**
609 Castle Ridge Road, Ste. 450
Austin, TX 78746
Telephone: 512.552.6123
jjones@jgjonesslaw.com

Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH,
CENTRAL DIVISION**

KEITH F. BELL, PH.D.,

Plaintiff,

vs.

MAGNA TIMES, LLC, RICHARD ELLIOTT,
EMILY GOULD, AND THE MAGNA
TIMES,

Defendant.

MOTION FOR ENTRY OF DEFAULT

Case No. 2:18-cv-00173-DAK

The Honorable Dale A. Kimball

Pursuant to Local Rule 55-1 and Rule 55(a) of the Federal Rules of Civil Procedure, Plaintiff Keith F. Bell, Ph.D. ("Plaintiff"), through counsel, requests that the Clerk of Court enter the default of Defendants Emily Gould and Magna Times, LLC (collectively, the "Default Defendants") for failure to appear, answer, or otherwise respond in a timely manner to Plaintiff's

Amended Complaint in the above-captioned case within the time prescribed by the Federal Rules of Civil Procedure. This request is based on the foregoing:

1. Plaintiff filed his Amended Complaint on August 30, 2018. *See* Dkt. 12.
2. Default Defendants were both served with the Complaint and Summons on September 16, 2018. *See* Dkt. 18-19.
3. Responsive pleadings were due on October 9, 2018. *Id.*
4. Having received no responsive pleadings by the deadline, Plaintiff's Counsel gave Emily Gould additional time to respond before seeking default. Plaintiff's Counsel informed Emily Gould that default would be sought against the Default Defendants if she did not respond by November 23, 2019. *See* Exhibit A, Letter to Emily Gould; *see* Exhibit B, Declaration of Grace S. Pusavat.
5. As of the date of this filing, Default Defendants still have not answered or filed any appearance or response to Plaintiff's Complaint.

ARGUMENT

Pursuant to Local Rule 55-1(a), "the clerk shall enter default" if "the proposed certificate of default is accompanied by an affidavit showing that the party against whom judgment has been sought has failed to plead or otherwise defend, and if service of the summons and the complaint appears to be proper." As demonstrated by the returns of service filed with the court (Dkt. 18-19), the Default Defendants were served with copies of the Complaint and Summons on September 16, 2018. The Default Defendants have failed to file any responsive pleadings or otherwise seek to defend against the Complaint. *See* Exhibit B, Declaration of Grace Pusavat. Counsel for Plaintiff specifically informed the Default Defendants that Plaintiff will seek default if the Default Defendants do not respond by November 23, 2018. *See* Exhibit A; *see* Exhibit B.

That time having passed, Plaintiff now seeks default against the Default Defendants due to their failure to appear and failure to defend. The Court should therefore enter default against the Default Defendants, Emily Gould and Magna Times, LLC, and issue a certificate of default.

CONCLUSION

WHEREFORE, Plaintiff respectfully requests that the Clerk of Court enter the Certificate of Default against Emily Gould and Magna Times, LLC. in the form filed concurrently herewith.

Dated: March 13, 2019

Respectfully submitted,

s/ Grace S. Pusavat

Julianne P. Blanch, USB #6495
Grace S. Pusavat, USB #15713
Parsons Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111
Telephone: 801.532.1234
Facsimile: 801.536.6111
JBlanch@parsonsbehle.com
GPusavat@parsonsbehle.com
ecf@parsonsbehle.com

C. Ashley Callahan
State Bar No. 24027545
LAW OFFICES OF C. ASHLEY CALLAHAN, P.C.
The Haehnel Building
1101 East 11th Street
Austin, TX 78702
Telephone: 512.817.3977
Telecopier: 512.287.3127
acallahan@callahanlawoffices.com

Joshua G. Jones (pro hac vice)
THE LAW OFFICE OF JOSHUA G. JONES
609 Castle Ridge Road, Ste. 450
Austin, TX 78746
Telephone: 512.552.6123
jjones@jgjoneslaw.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2019, I caused the foregoing **MOTION FOR ENTRY OF DEFAULT** to be electronically filed with the Court by CM/ECF. I further certify that the parties of record in this case, as identified below, are listed as registered CM/ECF users and will be served through the CM/ECF system:

- **Julianne P. Blanch**
ecf@parsonsbehle.com
- **Charles Ashley Callahan**
acallahan@callahanlawoffices.com
- **Joshua G. Jones**
jjones@jgjoneslaw.com
- **Jay L. Kessler**
jaylkessler@yahoo.com
- **Gretchen McCord**
gretchen@gretchenmccordlaw.com
- **Grace S. Pusavat**
ecf@parsonsbehle.com,gpusavat@parsonsbehle.com

/s/ Grace S. Pusavat